

REMARKS

Claims 1-7, 9-15, 18-34, 55 and 62-74 were previously pending in this application. Claims 1, 9-11, 13, 18, 33, 34, 55, 62 and 63 are amended. No new claims have been added. As a result claims 1-7, 9-15, 18-34, 55 and 62-74 are pending for examination with claims 1, 13, 18 and 62 being independent claims. No new matter has been added. Applicant requests entry of the amendments included herein because they place the application in condition for allowance.

Summary of Telephone Conference with Examiner

Applicant thanks Examiner Conley for his time and courtesy during the telephone interview conducted on July 12, 2007 with David Roccio and the undersigned. During the interview the parties discussed claim 1 in view of U.S. Patent No. 6,695,269 to Anscher (hereinafter "Anscher"). The parties also generally discussed an amendment to claim 1 concerning "a flexible portion" of the fastener. No agreement was reached regarding the patentability of any claim amendments. In addition, Applicant pointed out that Figs. 14-15b of Anscher illustrated an embodiment that was not described in the parent application of the '269 patent. Examiner Conley indicated that, accordingly, Figs. 14-15b were not relied on to reject the claims in the instant Office Action.

Rejections Under 35 U.S.C. §102

The Office Action rejects claims 1-3, 5, 7, 9-14, 18-20, 22, 24, 26-27, 30, 32-34, 55, 62-64, 66, and 67-73 under 35 U.S.C. §102(e) as being anticipated by Anscher.

As stated in the Amendment mailed on February 26, 2007, the embodiments illustrated in Figures 14, 15a and 15b of Anscher are not prior art to the instant application because the portion of Anscher that discloses Figures 14, 15a and 15b was filed four months after the filing date of the Applicant's priority application. Accordingly, the following remarks address the patentability of the claims as amended herein in view of the remainder of Anscher, i.e., in view of Figures 1-13 and the associated description.

As amended herein, claim 1 recites "a latch connected to a flexible portion of the base and positioned relative to the housing to retain the fastening element by interference with a

lateral surface of the fastening element, the latch including a surface that is proximate an opening in the housing, wherein each of the flexible portion of the base and the surface is externally accessible with the fastening element retained in the housing, the latch configured such that the fastening element is inhibited from being removed from the housing absent an application of a force applied to the surface proximate the opening to flex the flexible portion of the base.”

(Emphasis added.) Similarly, claim 13 recites “a latch connected to a flexible portion of the base and positioned relative to the housing so that the latch in combination with the housing retains the fastening element, the latch including a surface that is proximate an opening in the housing, wherein each of the flexible portion of the base and the surface is externally accessible with the fastening element retained in the housing,” and claim 62 recites “a latch connected to the flexible portion of the base; and a housing connected to the base, the housing adapted to retain the fastening element so that a surface of the latch located proximate an opening in the housing and the flexible portion of the base are each externally accessible with the fastening element retained in the housing.”

In contrast to the preceding, Fig. 9 of Anscher illustrates a flexible arm 21 which has a free end extending away from wall 19 with a protrusion 23 at the free end of the arm 21. (Col. 3, lines 40-48.) Fig. 2 of Anscher illustrates the base attached to a backpack while Fig. 5 of Anscher illustrates a cross-sectional view of the hydration tube holder inserted into the base. (See Figs. 2 and 5.) As illustrated in Figs. 2 and 5, Anscher does not describe that “a flexible portion of the base ... is externally accessible with the fastening element retained in the housing,” as recited in each of independent claims 1, 13 and 62. Instead, the hydration tube holder of Anscher blocks access to the flexible arm 21 when it is inserted into the base.

Independent claim 18 as amended herein recites “a latch positioned relative to the housing that in combination with the housing retains the fastening element, wherein the latch comprises a first portion to which pressure is applied when the fastening element is moved into engagement with the fastener and a second portion comprising a third surface disposed intermediate the first surface and the second surface upon which the fastening element rests when in an engaged position, at least a portion of the third surface being substantially parallel to the first surface, wherein the first portion is connected to the base external to the housing. Thus,

claim 18 recites a latch having a first portion and a second portion. Pressure is applied to the first portion, the fastening element rests on a surface of the second portion and the first portion is connected to the base external to the housing. Anscher does not describe a latch that includes a first portion connected to the base external to the housing where the fastening element rests on a surface of the second portion of the latch. That is, if one were to interpret Anscher as describing that the flexible arm 21 is a part of a base, then Anscher fails to describe that a fastening element rests on a surface of the second portion of the latch. Alternatively, if one were to interpret Anscher as describing that the flexible arm 21 is a part of a latch, then the latch is connected to the base at the housing (at the wall 19) and is not connected external to the housing. Accordingly, Anscher fails to describe that a latch includes “a first portion to which pressure is applied ... wherein the first portion is connected to the base external to the housing,” as recited in claim 18.

For all of the above reasons, Applicant respectfully asserts that independent claims 1, 13, 18 and 62 are not anticipated by Anscher. Further, each of claims 2, 3, 5, 7, 9-12, 14, 19, 20, 22, 24, 26, 27, 30, 32-34, 55, 63, 64, 66, and 67-73 depend either directly or indirectly from one of independent claims 1, 13, 18 and 62. Accordingly, reconsideration and withdrawal of the rejection of claims 1-3, 5, 7, 9-14, 18-20, 22, 24, 26-27, 30, 32-34, 55, 62-64, 66, and 67-73 under 35 U.S.C. §102(e) as being anticipated by Anscher is respectfully requested.

Rejections Under 35 U.S.C. §103

The Office Action rejects claims 6, 23, 31 and 67 under 35 U.S.C. §103(a) as being unpatentable over Anscher in view of U.S. Patent No. 5,507,610 to Benedetti et al. (hereinafter “Benedetti”). Each of independent claims 1, 13, 18 and 62 is patentable in view of Anscher as described above. Each of claims 6, 23, 31 and 67 depends from one of the allowable independent claims. Benedetti fails to cure the deficiencies of Anscher, namely Benedetti fails to disclose that “a flexible portion of the base ... is externally accessible with the fastening element retained in the housing,” as recited in each of independent claims 1, 13 and 62. Further, Benedetti fails to disclose that a first portion of a latch is connected to the base external to a housing. Accordingly, each of claims 6, 23, 31 and 67 is patentable in view of Anscher in view

of Benedetti at least for the reasons described above. Accordingly, reconsideration and withdrawal of the rejection of claims 6, 23, 31 and 67 under 35 U.S.C. §103(a) as being unpatentable over Anscher in view of Benedetti is respectfully requested.

The Office Action rejects claims 4, 15, 21, 25, 28-29 and 65 under 35 U.S.C. §103(a) as being unpatentable over Anscher. As described above, each of independent claims 1, 13, 18 and 62 is patentable in view of Anscher. Each of claims 4, 15, 21, 25, 28-29 and 65 depends from one of the allowable independent claims. Accordingly, each of claims 4, 15, 21, 25, 28-29 and 65 is patentable in view of Anscher at least for the reasons described above. Accordingly, reconsideration and withdrawal of the rejection of claims 4, 15, 21, 25, 28-29 and 65 under 35 U.S.C. §103(a) as being unpatentable over Anscher is respectfully requested.

The Office Action rejects claim 74 under 35 U.S.C. §103(a) as being unpatentable over Anscher in view of U.S. Patent No. 4,681,552 to Courtney (hereinafter "Courtney"). Independent claim 13 is patentable in view of Anscher as described above. Claim 74 depends from claim 13. Courtney fails to cure the deficiencies of Anscher, namely Courtney fails to disclose that "a flexible portion of the base ... is externally accessible with the fastening element retained in the housing," as recited in each of independent claims 1, 13 and 62. Further, Courtney fails to disclose that a first portion of a latch is connected to the base external to a housing. Accordingly, claim 74 is patentable in view of Anscher in view of Courtney at least for the reasons described above. Accordingly, reconsideration and withdrawal of the rejection of claim 74 under 35 U.S.C. §103(a) as being unpatentable over Anscher in view of Courtney is respectfully requested.

CONCLUSION

In view of the foregoing amendments and remarks, reconsideration is respectfully requested. This application should now be in condition for allowance; a notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant's attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed payment, please charge any deficiency to Deposit Account No. 50/2762, Ref. No. C0852-7013.

Respectfully submitted,
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